

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 19-42309

EASTLAKE INVESTMENTS LLC,

Chapter 7

Debtor.

Judge Thomas J. Tucker

**OPINION AND ORDER DENYING MOTIONS SEEKING RELIEF FROM THE
COURT'S ORDERS GRANTING THE CHAPTER 7 TRUSTEE'S MOTIONS FOR
RULE 2004 EXAMINATIONS**

This case is before the Court on the following three motions, filed on August 8, 2019: (1) the motion entitled “Corrected Motion to Set Aside Order for 2004 Exam of Dean J. Groulx and Wendy A. Grimaldi-Groulx (Docket # 174)” (Docket # 248); (2) the motion entitled “Corrected Motion to Set Aside Order for 2004 Exam of Long Lake Realty Group, LLC (Docket # 172)” (Docket # 252); and (3) the motion entitled “Corrected Motion to Set Aside Order for 2004 Exam of Dean J. Groulx, P.C. (Docket # 173)” (Docket # 255) (collectively the “Groulx Motions”). The Court construes the Groulx Motions as motions for reconsideration of, and for relief from, the Court’s three orders filed on July 2, 2019, which granted the Chapter 7 Trustee’s motions seeking Rule 2004 examinations and document productions of certain interested parties (Docket ## 172, 173, 174, the “July 2 Orders”).

The Court has reviewed and considered the Groulx Motions, and finds that each of the motions fails to demonstrate a palpable defect by which the Court and the parties have been misled, and that a different disposition of the case must result from a correction thereof. *See* Local Rule 9024-1(a)(3).

In addition, the Court concludes that the allegations in the Groulx Motions do not establish any valid basis under Fed. R. Civ. P. 60(b), Fed. R. Bankr. P. 9024, or any other valid

basis, for relief from the July 2 Orders.

The movants rely on *First Fin. Sav. Assoc. v. Kipp (In re Kipp)*, 86. B.R. 490 (Bankr. W.D. Tex. 1988), in arguing that “when an adversary proceeding is pending the Plaintiff can no longer use Bankruptcy Rule 2004 to conduct discovery that relates directly to the adversary proceeding.” (See Docket ## 248 at ¶ 7, 252 at ¶7, 255 at ¶ 7.) This judge-made rule is a discretionary rule, which the courts do not always follow. See, e.g., *In re Int’l Fibercom, Inc.*, 283 B.R. 290, 292 (Bankr. D. Ariz. 2002) (“the court holds the ultimate discretion whether to permit the use of Rule 2004, and courts have for various reasons done so despite the existence of other pending litigation”). In the exercise of this Court’s discretion, the Court will not follow this rule under the circumstances of this case. Those circumstances include the facts that the parties spent considerable time and effort in arguing, and the Court spent considerable time in deciding, what discovery the Chapter 7 Trustee should be able to obtain from the movants under Rule 2004. This included a lengthy hearing held on June 26, 2019. And all of this effort led to the entry of the detailed July 2 Orders. In the interest of efficiency and fairness, the Groulx Motions should be denied.

For the reasons stated above,

IT IS ORDERED that each of the Motions (Docket ## 248, 252, and 255) is denied.

Signed on August 11, 2019



/s/ Thomas J. Tucker

Thomas J. Tucker
United States Bankruptcy Judge